THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. No. 24830 of 1995

Dated: 17.10.2006

Between:

B. Gopal

… Petitioner

AND

The Secretary to Defence,
Ministry of Defence,
Union of India, New Delhi & others.

… Respondents

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

W.P. No. 24830 of 1995

ORDER:-

The petitioner, who was in service of Indian Army, was discharged prematurely on medical grounds with effect from 19.02.1987. The petitioner in his affidavit claims that since he was discharged on medical invalidation prematurely, he is entitled for disability benefits such as disability pension, group insurance etc. The petitioner submitted his claim for grant of disability pension and all other benefits applicable to the medical invalidated personnel. The 3rd respondent forwarded his disability claim to the competent authority for sanction of the same. The 2nd respondent, which is the sanctioning authority for disability pension, rejected his claim and the same was communicated to the 3rd respondent in his letter No.2581004/DP/12/PG-3 dated 11.07.1987, which is assailed in the present writ petition.

A counter-affidavit has been filed by the 3rd respondent in which the petitioner's claim for disability pension has been denied. It is averred in the counter-affidavit that as per the information of the medical board, the disability viz., Nephritic Syndrome was a constitutional disease and was not attributable to occupational reasons and that the rejection of disability pension claim is legal and proper. It is also mentioned in the counter-affidavit that the petitioner

filed an appeal against the said rejection, which was also rejected and the second appeal, which was forwarded to the Ministry of Defence in CCDA (P) Allahabad letter
No.G-3/87/2899/VII dated 03.04.1992 is still pending and the decision of the appellate committee of Ministry of Defence is still awaited.

Though ten years had elapsed, the appeal does not appear to be disposed of, obviously due to the fact that the present writ petition is pending. Since a seriously disputed question of fact is involved viz., whether Nephritic Syndrome disease for which the petitioner is claiming disability pension was contacted by the petitioner while discharging his duties and in connection therewith or not, this Court cannot decide this disputed question of fact. I therefore, deem it proper to direct the petitioner to pursue the appeal already pending. Since a long time had elapsed, it is just and necessary that the 1st respondent shall take steps to dispose of the appeal as expeditiously as possible preferably within three months from the date of receipt of a copy of this order.

With the aforementioned direction, the writ petition is disposed of. No order as to costs.

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C.V. NAGARJUNA REDDY, J

Date: 17.10.2006
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